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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,415	03/21/2001	Mark Dilman	1-6	2405

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EXAMINER

BILGRAMI, ASGHAR H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/813,415

Applicant(s)

DILMAN ET AL.

Examiner

Asghar Bilgrami

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/21/2002, 08/05/02, 05/29/01
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 through 12 are rejected under 35 U.S.C. 102(e) as being unpatentable over Mandal (U.S. 6,170,009).

As per claims 1 & 7 Mandal disclosed a method for monitoring usage of resources in a plurality of elements each capable of communicating with a centralized management station, comprising the steps of computing in each of the elements, a localized value indicative of the usage, in said element, of said resources, and, responsive to said localized value, communicating a message to said central station (col.2, lines 51-57, col.3, lines 45-67), and responsive to receipt or absence of receipt of said message in said centralized management station, obtaining information from at least another one of said elements indicative of the usage of said resources in said other element (col.4, lines 1-14).

3. As per claim 2 Mandal disclosed the method of claim 1, wherein said message includes said localized value (col.6, lines 1-18).

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4. As per claim 3 Mandal disclosed the method of claim 2, wherein said method further includes the step of using the information from at least another one of said elements as well as said localized value to estimate the global usage of said resources in all of said elements (col.6, lines 1-27).

5. As per claim 4 Mandal disclosed the method of claim 1, wherein said localized value is indicative of the present usage of resources by said elements and said computing step includes comparing said localized value to a fixed threshold value (col.3, lines 45-67).

6. As per claim 5 Mandal disclosed the method of claim 1, wherein said localized value is indicative of the rate of change of usage of resources by said elements and said computing step includes comparing said localized value to a fixed threshold value (col.3, lines 29-67).

7. As per claim 6 Mandal disclosed the method of claim 1, further including the step of responsive to the results of said polling, adjusting the use of resources at one or more of said elements (col.6, lines 1-27).

8. As per claim 7 Mandal disclosed a method for monitoring usage of resources in a plurality of elements each capable of communicating with a centralized management station, comprising the steps of asynchronous reporting of events when the resource usage in any of said elements deviates from a prescribed norm, and a periodic polling of said network elements in response to an event generated in said asynchronous reporting step (col.6, lines 1-27).

9. As per claims 9 & 10 Mandal disclosed a technique for managing network elements in order to reduce the amount of monitoring related traffic, comprising the steps of partitioning a global resource into a plurality of separate nodes, assigning a fixed resource budget to each of the nodes, when any of the nodes exceeds its budget, based upon local monitoring at that node,

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triggering a report in the node by sending a message to a central manager, and responsive to receipt of said message in said central manager, issuing a global poll of all of the nodes in said network (col.4, lines 52-56 & col.5, lines 31-44).

10. As per claim 11 Mandal disclosed the method defined in claim 8 wherein said network elements are routers switches and bridges and firewall devices (col.7, lines 29-39).

11. As per claim 12 Mandal disclosed the method defined in claim 8 wherein said network elements are application level elements such as servers, hosts, and layer 4-7 switches (col.2, lines 66-67 & col.3, lines 1-12).

### ***Response to Arguments***

12. Applicant's arguments filed on October 28, 2004 have been fully considered but they are not persuasive. When prior art is presented to the applicants, it is the responsibility of the applicants to not simply read portions of the prior art but to also gain an understanding of the spirit of the design.

13. The applicant argued that "The Mandal reference is completely different than the applicant's invention since the Mandal reference fails to teach, or even suggest "computing in each of the elements, a localized value indicative of the usage, in said element, of said resources, and, responsive to said localized value, communicating a message to said central station".

As to applicants argument Mandal discloses a system of that facilitates the control over a group of devices (elements) through policies. Policies are initiated by a user through the policy server (central station) from which these policies are sent to the devices (elements) on the network

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(col.1, lines 53-59, figure 1). Once these policies are implemented on the devices (elements) they communicate with the policy server (central station) providing status (localized value) of that specific device (col.3, lines 51-66, figures 1 & 2) and (col.6, lines 9-13).

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Asghar Bilgrami  
Examiner  
Art Unit 2143

AB



BUNJOB JAROENCHONWANIT  
PRIMARY EXAMINER